G. R. S. IX-5]

Previous references. 1877–78

191 .

(Courts.)

File No. 3 of 1877

Serial Nos. 1–7

Later references.

Reg. 1 of 1889.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1–7

Major ~~Part~~ B for

SUBJECT.

~~Notes relating to Public Prosecutor's~~ Appearance of Public Prosecutor before Chief Court.

Indexed

W D 88—GPB—50,000—24-7-16

GOVERNMENT HOUSE

Public Prosecutorship of Bangalore -

Forwarded for Secretariat Records for favour of his opinion

Please see order dtd 8/1/1891 Dated 7th Nov. Recorded & sent for his record under the orders of the Secretariat

dtd 8/1/91

Secretariat Office Bangalore 9/11/91

The immediate question for decision is what arrangements shd be made for appearance in Chief Court in Support of Convictions in Criminal Appeals heard by that Court -

Public Prosecutors' first duty is in Original trials before the Sessions Ct. In appeals before Chief Ct from Sessions Judges' Convictions, under S 422 Crim! Pro. Code, notice has to be given to such Officer as the Govt may appoint in this behalf -

Before the Rendition the Public Prosecutor Bangalore was the Officer appointed to receive notice & appear & support Convictions in all three S. Judges Cts in the Province - (See orders of 22 May 1878)

On appointment of Govt advocate in April 1881, this duty devolved upon him - when Mr Meenakshi was appointed Legl Secy in Feburary 1886, he was appointed Legl Secy in addn to his duties as Govt advocate

V

the Same Duty Continued to Vest in him, because the intention then was to appoint Some other Person as Insp.r Genl of Regr.s — Such other Man was not appointed & Mr Meenaghan Continued Inspector Genl of Regr.s + Govt Advocate + Legr. Secy — but

~~till~~ June 1890 — when he was relieved of ~~from~~ the Duty of appearing in Chief Court which was put upon the Public Prosecutor, as under the orders of 22 May 1870.

The authority for this Relieving Mr Meenaghan is Contained in the appended ~~Enclosed~~ D.O. from H.H. Home

3

In 1881 Mr. Meenaghan had been led to expect a Seat on the Chief Court Bench - when he was not taken & the Chief Court ~~[illegible]~~ H. H. in writing ordered his appointment on the Council - This too did not come off. When Kristna Gupti was appointed Judge in June '90 (just before I went on leave) Mr. Meenaghan was relieved of appearances in the Chief Ct. — I know this Entered

4

fully into the rest of the subject, because
of the remarks of the Judges in the
D.Os. which are on file. Apart from the rest
history of the matter, I am of opinion that
Mr Meenachya Case (in addition to
Legal & Regr work) Easily give Govt legal
opinions on questions referred to him, but he
cannot appear in Court & argue cases, without
some detriment to his other duties ——

Mr Thumboo Chettiar's recommendations
(if Mr Meenachya can't appear) are

A To appoint another Govt advocate on Rs 500/—

or

B To attach the Public Prosr of Bangalore to
the Chief Court on Rs 200 (his present pay is Rs. 150),
(a) to support Convictions in all appeals to
the chief Ct from all S. Judges
(b) to support orders in all revision Cases before
the chief Ct.
(c) to appear in applns made to Ch. Ct for
transfer of Cases.
and (d) also Conduct Sessions trials in Bangalore

If the Second alternative as above be accepted then under the Law we must appoint Some Public Prosecutors to Conduct Session trials at Kolar & at Tumkur. But Therefore Chetty recommends that the H. Qr. Inspectors of these Ds. Sts may be appointed Public Prosecutors.

This is the important point to decide.

The last proposal is not quite the right thing in principle.

Conducting Crim! trials before S. Judge or Appeals before Chief Ct. will be good practice for one of the Probationary Asts & be appointed under the Competetive System. However this maybe, Some immediate Solution is required — But Therefore Chetty

This is the next important point. It has reference to the future

I wd make temporary arrangements for one year

only, ~~as follows~~, till we can put one of

the new Probationers, again on the duty

as follows :—

1st — Ramaswami Iyer — to be attached to

Chief Ct on Rs. 200 & to be employed

on duties indicated by Mr T. Chetty

in alternative B above — He wd get

no fee, in addition, for appearances —,

2nd — For Tellicherry work — Kolar & Tumkur

(& Bangalore perhaps also) an Asst

Prosecutor be appointed on Rs 100 /— ⊕

The Chief Ct could nominate for

this new office (to be called Asst-

Pub.-Prosecutor) any young man

who promises to make a good Asst —

Yours sincerely

C Desgs.

⊕ the Deputies on the Bangalore

In important cases such as appeals after acquittals

the Messengers must appear in person. Such cases

— like be very rare —

7

If the application be about
one month & the case
is simultaneously with the
Ramaswami Iyer Pleadings
& Bills for work hitherto done

Opinion of
Counsel
[illegible]

ork
ee of
- remind of
w' be as heavy
not heavier
than that of the
other two days
the pay of the Sub
of N. for similar Pleadings
is not less than Rs 150

9/12/91

Memorandum

On 29th April 1881, Mr. C. Meenacshaiya, Barrister-at-Law, was appointed to be Advocate to the Government of Mysore.

On 1st February 1890, Mr. Meenacshaiya was appointed Legislative Secretary in addition to his duties as Govt Advocate.

On 12th February 1890, the following order was passed regarding his pay and travelling allowances:—

"Official memo No $\frac{87}{549}$ & 12th Febr. 1890.

"Copy of Notification No 309 of 1st Febry "1890 is forwarded to the Comptroller for "information, with the remark that Mr. "Meenacshaiya's appointment as Legislative "Secretary is in addition to his duties as "Government Advocate and that a salary "of Rupees 1000/ will be attached to him for "the combined duties of Govt Advocate "and Legislative Secretary, without any claim "for fees or other remuneration for appearances "in Court on account of Govt. or for any "other Govt work whatsoever. When Mr. Meenacshaiya "travels out of Bangalore on public duty, "he will be entitled to draw the Travelling "allowances of a District Judge"

EX BALLANTRAE

9

Note

Mr Inverarity may, without any serious inconvenience, attend to his Legislative work & also appear before the Chief Court to support Criminal appeal convictions. But if he is also to continue to be Registrar General, it would be impossible for him to attend the Chief Court as he has to travel. He must therefore be either relieved of his work in the Chief Court, or of his work as Registrar General. I consider that the best course would be to relieve him of his work as Registrar General & transfer the work to Executive Council

who have not much
to do, & who, being
a travelling Offr, can
better superintend
the Registration work.
This involves no
additional cost to Govt:
while it secures to Govt:
the best available legal
talent to represent
its interests in the
Chief Court.

2. If however the
above arrangement
cannot be carried
out for any other reason,
I think that the suggestion
made by the Dewan
is the best. I would
only propose one modification.
Viz. I would confine
Mr Ramaswami Ayers
duties to the Chief Court
& make the new Public
Prosecutor to conduct
Sessions cases in
Bangalore also. This
would remove the
inconvenience often
complained by the
Chief Court completely.

A

B

If Mr Ramaswamy Iyer is a constant practising case in Bangalore, it may so happen that while he is engaged in the Sessions his services might be required in the Chief Court.—

3. As regards the Salaries proposed, i.e. Rs 200 to Mr Ramaswamy Iyer, & 100 Rs to the Public Prosecutor, I think that they are not sufficiently adequate; I would give them a retaining fee of Rs 100 & 50 respectively, & also pay them for each case at Rs 20, except in important cases when a special fee may be granted. Mr Ramaswamy Iyer may be styled "Asst. Advocate"—

I am not in favor of this proposal. Afixed pay & prospects. If such 200 permanency we can get the best & Rs 10 advocate of the Bar

AM.

4 Mr Menakshya

I have already stated my views fully in my letter of 31st August.

If the Registration work is taken away from Mr Meenachy and the Inam Com is made to do the work — an arrangement which I consider quite feasible — there will be no extra expense to Govt, and it will not be necessary to have a separate Sub Judge for the Chief Ct. Mr Meenachy as Legve Secy & Govt advocate will have ample time & leisure to appear before the Chief Ct on important cases in all cases — Mr Rama Sammy Iyer will do duties as the Sub Judge of the Nundydroog

The next best arrangement is to appoint a separate Govt advocate and relieve Mr M altogether of Court work. The Off appointed as Govt adv will appear before the Chief Ct in all Civil cases without claiming any Extra fees.

If it is decided however to make Mr M do the combined duties of Legve Secy, Govt adv & Govt pleader the only alternative is to have a separate Sub Judge for Chief Ct at Rs 200 & another Sub Judge for Nundydroog on Rs 150, thereby entailing an add

Civil Surgeon in Cantonment has no duty in Jail

Civil Surgeon in Cantonment has no duty in Jail

Civil Surgeon in Cantonment has no duty in Jail

Section C5
File No 3477
Serial No

64

Proceedings of the Chief Commissioner of Mysore

(Read:

Letter from the Judicial Commissioner dated 11th May 1893, No. 535-42, transmitting in original, certain correspondence relating to the attendance of the Public Prosecutor of the Nagar Division before the Judicial Commissioner's Court in appeals against convictions in Sessions cases committed from the Districts of the Ashtagrams and Nagar Divisions, and requesting that orders may be communicated to the District Magistrates as to the course to be followed.

Order thereon. No: 1369/16 of Bangalore, 22nd May 93

modified by C.O. Proc^s No 2810 dated 9/15 July 1898 J.O.

The Chief Commissioner observes that it will be generally impracticable to have the attendance at Bangalore of the Public Prosecutor at Mysore and Shimoga without entailing much public inconvenience and loss.

2. Mr. Gordon assumes that it is only in cases of special interest and

This was 29th just before I went on leave -

Section C/S.

File No 3 C/ 77

Serial No

Dear Edwards

I regard it as [illegible] that [illegible] will be appointed Judge, your proposal to relieve [illegible] of his attendance in court is approved. As to his period in case we might decide after your return how you will have a pleasant time of your holiday & come back with good health

Believe me

Yours very sincerely

Chas Bryan Worsley

importance that the services of a Public Prosecutor will be required to support a conviction before the Judicial Commissioners Court, and in such cases the best arrangement would seem to authorise the Sessions Judges of Ashtagrama and Nagar on application from the District Magistrate to instruct the Public Prosecutor Nandydroog Division to appear on behalf of Government, a fee of Rs: 25, being paid to him in each case, our Bills to be countersigned by the Sessions Judges.

Raised to #506 by Pro no 2870 dt 4 9 15 pub 378

3. In carrying out this arrangement, it will be necessary of course that some discrimination should be used by the Sessions Judges in deciding what cases shall or shall not be defended, and further that when recourse is to be had to the services of the Public Prosecutor, Nandydroog Dn, the instruction with the record of the case should reach him in sufficient time to allow him to take up the case without detriment to his other duties

4. The Sessions Judge, Nawdyhoog Division is requested to communicate the purport of this order to the Public Prosecutor of his Court, and to ascertain and report whether he is prepared to undertake these duties on the terms stated.

Sd/ T. R. A. Thumber Chetty

For Secretary.

To, The Judicial Commissioner.
Returning original enclosures.
" " Commissioners of Divisions
" " Dy. Accountant General.

Section · cfs
No. 3477

Proceedings of the Chief Commissioner of Mysore, Judicial Department,
15th July 1878.

Read—

Letter from the Judicial Commissioner, dated 11th May 1878, No. 535—42, transmitting in original, certain correspondence relating to the attendance of the Public Prosecutor of the Nagar Division before the Judicial Commissioner's Court in appeals against convictions in sessions cases committed from the Districts of the Ashtagram and Nagar Divisions, and requesting that orders may be communicated to the District Magistrates, &c., as to the course to be followed.

Proceedings of the Chief Commissioner of Mysore—Order No. 1369—16 J, dated Camp Mysore, the 22nd May 1878.

The Chief Commissioner observes that it will be generally impracticable to direct the attendance at Bangalore of the Public Prosecutors at Mysore and Shimoga, without entailing much public inconvenience and loss.

2. Mr. Gordon assumes that it is only in cases of special interest and importance that the services of a Public Prosecutor will be required to support a conviction before the Judicial Commissioner's Court, and in such cases the best arrangement would seem to be to authorize the Sessions Judges of Ashtagram and Nagar, on application from the District Magistrates, to instruct the Public Prosecutor, Nundydroog Division, to appear on behalf of Government; a fee of Rs. 25 being paid to him in each case, on bills to be countersigned by the Sessions Judges.

3. In carrying out this arrangement, it will be necessary of course that some discrimination should be used by the Sessions Judges in deciding what cases shall or shall not be defended, and further that when recourse is to be had to the services of the Public Prosecutor, Nundydroog Division, the instruction with the record of the case should reach him in sufficient time to allow him to take up the case without detriment to his other duties.

4. The Session Judge, Nundydroog Division, is requested to communicate the purport of this order to the Public Prosecutor of his Court, and to ascertain and report whether he is prepared to undertake these duties on the terms stated.

READ—

From Judicial Commissioner, No. 1006—82, dated 17th June 1878, with enclosure.
This office docket No. 2445—39, dated 1st July 1878, to Judicial Commissioner.
From Judicial Commissioner, No. 1251—101, dated 4th July 1878.

No. 2870—JUDL. 49, DATED BANGALORE, 15TH JULY 1878.

ORDER.—With reference to para 4 of the Chief Commissioner's Proceedings No. 1369—16, dated 22nd May 1878, the Judicial Commissioner has recommended that a fee of Rs. 50 be paid to the Public Prosecutor, Nundydroog Division, in every case in which the latter may be called upon to support convictions in criminal appeals from Districts other than those in the Nundydroog Division, and Mr. Nepean Smith has assented to these terms. The recommendation is approved, and the Chief Commissioner authorizes the Sessions Judges, Ashtagram and Nagar Divisions, to give effect to this procedure prescribed in the order above cited.

2. In exceptional cases a special fee will be awarded to the Public Prosecutor, Nundydroog Division, on the application of the Judicial Commissioner.

T. CLARKE,
Secretary.

To—The Judicial Commissioner.
" Commissioner of Nundydroog Division.
" " Ashtagram Division.
" " Nagar Division.
Mr. G. Nepean Smith, Public Prosecutor, Nundydroog Division.
The Dy. Accountant General.

1878.

GOVERNMENT OF MYSORE.

JUDICIAL.

To

THE JUDICIAL COMMISSIONER.
„ COMMISSIONERS OF DIVISIONS.
MR. G. NEPEAN SMITH, PUBLIC PROSECUTOR, NUNDYDROOG DIVN.
THE DY. ACCOUNTANT GENERAL.

Dated July 15th.

Despatched

Received

No. 2870.
Judl. 49.

Approves of the recommendation made to pay a fee of Rs. 50 in each case in which the Public Prosecutor of the Nundydroog Division may support convictions in criminal appeals from the Districts other than those of the Nundydroog Division.

Proceedings of the Chief Commissioner of Mysore.

GOVERNMENT OF INDIA SECRETARIAT
Section C.D.
File No 3477
Serial No 4

Read.

Letter No. 3775 ~~+ 280~~ dated 9th December 1878, from the Judicial Commissioner, making proposals for defining the duties and position of Public Prosecutor.

Order No. 9717 - Judicial 182 Dated Bangalore 4th February 1879.

In accordance with the views expressed by the Judicial Commissioner in the above letter, the Chief Commissioner is pleased to issue the following rules.

(1). That a Public Prosecutor be appointed in each Sessions Division under Section 57 of the Criminal Procedure Code to perform all the duties assigned to the Public Prosecutor by that Code.

(2). That the Public Prosecutor in each Division be not borne

on

on the establishment of the Sessions Judge, as he apparently at present is, and that he conduct his duties under the direction of the Local Government or its Chief executive representative in the Division.

(3) That it shall be the duty of the Public Prosecutor to give legal advice on all proposals to appeal under Section 272 of the Code of Criminal Procedure and on all Criminal Cases generally when consulted by the following Officers:—

Secretary to the Chief Comm^r.
Chief Engineer
Inspector General of Police
Commissioners of Divisions
(in the Rev or executive capacity)
Deputy Commissioners of Districts
Military Ass^t to the Ch. Comm^r.
Director of Public Instruction.

(4). That it be part of the duties of

of the Public Prosecutor to conduct prosecutions before the Sessions Court and any other Criminal Court at the orders of the Chief Commissioner or the Judicial Commissioner or the Commissioner of Division or of the Sessions Judge.

(5). That it be part of his duties to support convictions in the Judicial Commissioner's Court on appeal or revision, and also the convictions of the Magistrates on appeal to the Court of Session, whenever instructed by the Magistrate of the District in that behalf as contemplated by Section 279 and 280 of the Code of Criminal Procedure.

(6). That it be his duty generally to act as the representative of the Government in the Court of the Judicial Commissioner on the Criminal Side

Side and the Courts of Session, and in that Capacity to receive and act upon all notices received by those Courts.

2. For the extra duties thus devolving on Public Prosecutor in addition to what has hitherto been required of him, remuneration shall be made by fees; the minimum fees will be Rs 16 when called upon for an opinion and Rs 32 when called upon to appear in Court otherwise than to conduct prosecutions before the Court of Sessions or to support convictions on appeal in the Court of the Judicial Commissioner. Special fees which have already been sanctioned for the Public Prosecutor of the Nandidroog Division are not affected by these orders.

The minimum fee awarded to PPs for supporting convictions & the maximum increased to Rs 16 by G.O No 1162-66 of 30 Aug 86

3. It is improbable that the present Public Prosecutor in

in the Nagar Division who is
an Official in the Commissioner's
office can perform adequately
the duties of the office as above
defined. On this point and
on what arrangements he would
propose for the Nagar Division
the Judicial Commissioner is
requested to report.

These orders will be com-
municated to the present
Public Prosecutors who are
requested to state whether
they accept the terms now
offered.

Sd/ W. J. Cunningham
Offg Secretary

"Copy"

Proceedings of the Government of Mysore

3 47
5 Order

No. 2674/276 Dated Bangalore 30th June 1890.

The Public Prosecutor, Bangalore, is requested to appear before the Chief Court and other Courts in all cases in which the Government Advocate is, under existing procedure, required to appear on behalf of Government.

/Signed/ T. Anandadow
Chief Secretary

No. 2676/264. Copy forwarded to Comptroller for information.

By Order
S/ T. Anandadow
Chief Secretary

Original Petition 24

Cls 37 77. 6

GENERAL.

NOTIFICATION.

The 6th September 1890.

No. 231.—Mr. S. Ramaswami Iyer is appointed Public Prosecutor, Nundydroog Division, with effect from 15th September 1890, and he is hereby empowered to receive all notices given, under Section 422 of the Code of Criminal Procedure, 1882, of appeals against convictions passed by any of the Sessions Courts in the Province and also the notices required to be given to the Public Prosecutor under Section 526 of the said Code.

By Order,
T. ANANDA ROW,
Chief Secretary.

File No. 3 34 17

Serial No. 7

Proceedings of the Government of His Highness the Maharaja of Mysore, (Financial),—dated 10th September 1890.

READ AGAIN:—

Proceedings of Government No. 6600-1—342, dated 26th November 1889, reducing the amount of a bill from Rs. 53—15—8 to Rs. * 19—15—8 as per Proceedings No. 1162-66—4, dated 30th April 1886, on account of fee, &c., payable to Mr. Subba Row, Advocate, for having, under instructions from the District Magistrate, supported the conviction before the Chief Court, on the 28th August 1889, in case No. 12 of 1889 on the file of the District Magistrate of Bangalore.

	Rs.	A.	P.
* Fee payable under Proceedings of 30th April 1886	16	0	0
Amount of cost incurred by Mr. Subba Row ..	3	15	8
	19	15	8

READ ALSO THE FOLLOWING PAPERS :—

(1). Docket No. 767, dated 3rd February 1890, from the District Magistrate, Bangalore, submitting an application from Advocate Mr. Subba Row, and recommending that, under the circumstances therein represented, the full amount of the bill, *viz.*, Rs. 53—15—8 may be sanctioned.

(2). Docket No. 3774—177, dated 22nd July 1890, to the District Magistrate, Bangalore, enquiring whether the case was of such importance as to justify the employment of an Advocate, specially to support the conviction in the Chief Court, and calling for the record of the case in question.

(3). Docket No. 378, dated 19th August 1890, from the District Magistrate, Bangalore, (Mr. Abdul Rahman) forwarding the entire records of the case in question and stating that his predecessor Mr. P. N. Krishna Murti considered it necessary to engage an Advocate to support the conviction in appeal before the Chief Court.

No. 6947—55—CIR. 145, DATED 10TH SEPTEMBER 1890.

ORDER THEREON.—On a perusal of the records of the case referred to in the correspondence read above, the Government observe that the case was not of such general interest and importance as to warrant the District Magistrate instructing an Advocate, specially, in the absence of the Government Advocate and Public Prosecutor, to support the conviction before the Chief Court. The complaint was one of defamation preferred by a private pleader who was more interested in the result than the Government, and there was apparently no necessity to instruct an Advocate specially to support the conviction in appeal.

2. The attention of the District Magistrate is, moreover, drawn to the Proceedings of the late Chief Commissioner, No. 1369—16, dated 22nd May 1878, in which it was clearly laid down that it was only in cases of special interest and importance that the services of the Public Prosecutor or a Pleader should be engaged to support a conviction before the Chief Court. The Government will be put to needless expense if the instructions contained in the Proceedings aforementioned are not strictly observed.

3. The fee usually paid to the Public Prosecutor, for supporting convictions by the Magistracy, is Rs. 16, (*vide* Proceedings No. 1162-66—4, dated 30th April 1886), and a higher fee cannot be sanctioned in the present case, as the Public Prosecutor himself could not have claimed a larger amount.

T. ANANDA ROW,
Chief Secretary.

To—The District Magistrate of Bangalore, returning the bill.
Other District Magistrates for information and guidance.
The Registrar of the Chief Court.

3 3 eels
20

1890.

GOVERNMENT OF MYSORE.

FINANCIAL.

PROCEEDINGS.

Dated 10th September 1890.

No. 6947-55. Cir. 145.

Drawing attention to the standing orders that only in special cases the services of the Public Prosecutor or a Pleader should be engaged to support a conviction before the Chief Court.

Mysore Govt. Central Press, Bangalore.—27-9-90.—120.